

V

)  
UNITED STATES COURTS  
SOUTHERN DISTRICT OF TEXAS  
FILED

Case 4:12-cv-01683

RICK THALER

Clerk Of Court

JUN 27 2013

June 25, 2013

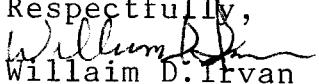
David J. Bradley, Clerk of Court

Dear Clerk:

Please find enclosed a letter to Patrick F. McCann and a (3) page document addressed to McCann from CHRIS DANIEL, the Harris County District Clerk. It is dated June 17, 2013 and is in regards to Ex Parte Clarence Randolph.

Please file these documents in above said case .

Thank you for your help in this matter....

Respectfully,  
  
William D. Irvin

PATRICK F.MCCANN

JUNE 25,2013

Today June 25,2013.I received a envelope addressed to me.It has my name and number on it,but it does not have anything to me.It has a letter from the Harris County District Clerk ,to you. Then on the 2nd page is Ex Parte Clarence Randolph.It is Respondent's Proposed Order For Filing Affidavit.I guess you put his Legal Work in my letter and Mine in his.Can you send what you were sending me.To me again.

Can I ask you a question ? Have you ever read the AEDPA ? Have you ever read Art 64.In the T.C.C.P ? Have you ever read 2244 (d)(1) and 2244 (d) (2) ? Have you ever read Hutson V.Quarterman ? Have you ever read Villegas V.Johnson ? Maybe you should. Have you ever read Lovasz 134 F 3d 148 ? You may want to read those so if you ever have a client go in to Federal Court.You will know that he should not be in Federal Court,with a Art 64.Pending. You knew that I was Abandon in State court by Danny Easterling and I was not able to get my issues in my 11:071 writ.In Respondent's Responce In Opposition To Petitioner's Motion To Stay Wit Brief In Support.Page 2,A Stay is Inappropriate.It states" Irvan ask the court to stay his case so that he may pursue a new theroy the the crime for which Irvan is convicted was actually committed by the victim's estranged husband.**YET,NOTHING IS PREVENTING IRVAN FROM FILING A STATE HABEAS PETITION.**"At that time you could of gone back to the CCA and filed a Subsequent writ,but you did not.WHY???????? YOU DID NOT GIVE A D... ABOUT MY LIFE AND IT WAS ALL ABOUT MONEY. Shame on you Patrick F.McCann.I did not kill anyone and you left me in Federal Court,when you knew that I should not of been there and you did not take me back to the CCA for a subsequent writ. The Ag's office and Judge Hughes told you numerous times that the time limit was tolled and it was not running.Are you really that stupid that you did not know that I can not have a case in Federal Court and State Court.A Collateral review.

Villegas V.Johnson ,184 F.3d 467.With respect to Comity Concerns, we agree with the Third Circuit that "If a state Prisoner files a secon petition for post-conviction relif,federal courts should not undermine the statesdecision by refusing to toll the one-year period of limitations of 2244(d)(1) where a second or subsequent petition is PENDING in the state court system" Lovasz 134 F 3d 148.AEDPA evinces no congressional intent to embroil federal courts in problematic determinations of the merit with AEDPA's limitation period would forgo the successive state filing and submit a premature federal petition or would simultaneously file stateand federal petitions. Federal courts would then face the delimma of holding petitions in abeyance or dismissing without prejudice.

I do believe that you and Ms.Gotro acted with impropriety.I think you knew what you were doing and put my best intrest out the window. That is why Yall are no longer my attorney's in my Federal Case or my DNA case.864928.DO NOT FILE ANYTHING IN MYCASES.

CC  
US DISTRICT COURT  
1 encloser 3 Pages.

  
William D.Irvan



**CHRIS DANIEL**  
**HARRIS COUNTY DISTRICT CLERK**

June 17, 2013

PATRICK F. MCCANN  
ATTORNEY FOR APPLICANT  
909 TEXAS AVE. #205  
HOUSTON, TX 77002

To Whom It May Concern:

Pursuant to Article 11.07 of the Texas Code of Criminal Procedure, please find enclosed copies of the documents indicated below concerning the Post Conviction Writ filed in cause number 1116419-A in the 177th District Court.

- State's Original Answer Filed ,
- Affidavit ,
- Court Order Dated ,
- Respondent's Proposed Order Designating Issues and Order For Filing Affidavit.
- Respondent's Proposed Findings of Fact and Order ,
- Other

Sincerely,

  
Brenda McNeil, Deputy  
Criminal Post Trial

Enclosure(s) – Respondent's Proposed Order For Filing Affidavit

**EX PARTE**

NO. 1116419-A

CLARENCE RANDOLPH,  
Applicant

§ IN THE 177<sup>TH</sup> DISTRICT COURT  
§ OF  
§ HARRIS COUNTY, TEXAS

## **RESPONDENT'S PROPOSED ORDER FOR FILING AFFIDAVIT**

Having considered the application for writ of habeas corpus in the above-captioned cause and Respondent's earlier motion, the Court previously ordered the designation of issues that needed to be resolved.

Therefore, pursuant to Article 11.07, §3(d), this Court will resolve the designated issues and then enter findings of fact.

To assist the Court in resolving these factual issues, WILLIAM GIFFORD is ORDERED to file an affidavit summarizing the actions taken to represent Applicant in cause number 1116419 and responding to the allegations of ineffective assistance of counsel contained in the instant application for writ of habeas corpus and specifically responding to the following issues:

1. Whether Gifford believed that it was necessary or beneficial to move to suppress or object to Applicant's oral admissions claiming ownership of the prohibited items on the basis that the statements were improperly obtained since Applicant was in the custody of the Harris County Jail and was not advised of his *Miranda* warnings (if so, please state reasons for not moving to suppress or objecting to the evidence of Applicant's oral statements; if not, please state reasons for this belief);
2. Whether Gifford discussed with Applicant before trial the existence of any potentially mitigating or favorable punishment evidence that could be presented on Applicant's behalf in the punishment phase of trial (if so, please summarize the information provided by Applicant about any such potentially favorable punishment evidence; if not, please state reasons for not so discussing with Applicant); and
3. Whether Gifford investigated the written judgment and sentences and related evidence that the State would reasonably be expected to introduce against Applicant to establish his criminal history for the enhancement allegations or bad character (if so, please summarize the results of this investigation and any conclusions reached concerning the admissibility of this evidence; if not, please state reasons for not so investigating).

William Gifford IS ORDERED to file said affidavit with the Criminal Post-Trial Section of the Harris County District Clerk's Office, 1201 Franklin, 3<sup>rd</sup> Floor, Houston, Texas 77002, within **THIRTY DAYS** of the signing of this order.

The Clerk of the Court is ORDERED to send a copy of this order to Applicant, a copy of this order to Respondent, and to serve copies of this order, the application and Respondent's answer to:

William Gifford  
Attorney at Law  
1302 Waugh  
Houston, Texas 77019

When the affidavit of William Gifford is received, the Clerk is ORDERED to send a copy of said affidavit to Applicant and a copy to Respondent.

Upon the expiration of time to file the proposed findings of fact, the Clerk shall submit all the documents material to this cause to this Court.

The Clerk of the Court is ORDERED NOT to transmit at this time any other documents in the above-styled case to the Court of Criminal Appeals until further ordered by this Court.

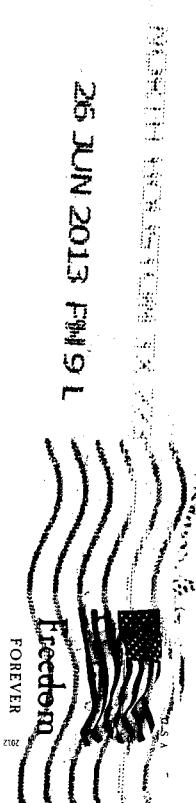
By the following signature, the Court adopts the Respondent's Proposed Order for Filing Affidavit in Cause Number 1116419-A.

Signed this 11 day of June, 2013.

  
PRESIDING JUDGE, 177<sup>TH</sup> DISTRICT COURT  
HARRIS COUNTY, TEXAS

WILLIAM D. IRVAN 999472  
Polunsky Unit  
17872 FM 350 South  
Livingston, Tx. 77351

26 JUN 2013 FM 9 L



UNITED STATES COURTS  
SOUTHERN DISTRICT OF TEXAS

FILED

JUN 27 2013

U.S. DISTRICT COURT  
Southern District of Texas  
Houston Division  
Attn: Clerk of Court  
David J. Bradley, Clerk of Court  
515 Rusk  
Houston, Tx. 77002

Legal Mail

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